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| 10/712,758 | 11/12/2003 | Andrew Levy | 02P18962US01 | 7391 |
| 43713 7590 02/20/2008 JACK SCHWARTZ & ASSOCIATES 1350 BROADWAY, SUITE 1510 NEW YORK, NY 10018 | | | EXAMINER WANG, CLAIRE X | |
| | | | ART UNIT 2624 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|-----------------------------|--|
| Office Action Summary | Application No. 10/712,758 | Applicant(s) LEVY ET AL. | |
| | Examiner Claire Wang | Art Unit 2624 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicants' response to the last Office Action, filed on November 29th, 2007 has been entered and made of record.
2. Applicant's amendment has necessitated new grounds of rejection. Thus, new grounds of rejection are presented in this Office Action.

Response to Arguments

3. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 10-14, 20-21, 23-25, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over West et al. (US 2002/0013518 A1 hereinafter "West") in view of Maschke et al. (US 6,221,012 B1 hereinafter Maschke).

As to claim 1, West teaches a system for monitoring and processing signal parameters acquired from a patient in multiple operational modes and housed as a portable monitoring unit (multiple patient monitoring system through wireless communications; Paragraph [0002]), comprising: a data acquisition processor for receiving and processing patient parameter data from a plurality of different patient attached sensors to provide processed patient parameter data (monitor includes one or more sensor inputs for receiving vital signs data from a patient; [0004], lines 6-7); an image reproduction device for displaying processed patient parameter data (Fig. 8 is an exemplary image for display on a display screen; [0014]); a communication interface for communicating said processed patient parameter data (wireless transceiver configured to transmit and receive wireless communications; [0004], lines 7-9) to: said image reproduction device for display in a first mode (display device used to automatically display notification to a user; [0005], lines 12-16); and a central monitoring station

remotely located from said monitoring unit for storage of processed patient parameter data in a patient history repository via a network access point coupled to a communication network via wireless communication in a third mode (central stations are configured to communicate with a plurality of patient monitors through wireless communications; [0050], lines 1-7), said third mode being automatically enabled in response to detecting that a wired connection between said communication interface and said communication network is not available (any known wire or wireless communication technologies may be used to perform the communication between central station and patient monitors; [0050], lines 23-25). However, West does not teach a docking station when said portable monitoring unit is docked in said docking station in a second mode; and a power unit for re-charging a battery in said portable monitoring unit in said second mode.

Maschke teaches a transportable modular patient monitor with data acquisition modules with a docking station is where the portable monitor may be attached (Col. 14, lines 37-38) wherein the docking station recharges the battery of the monitor while the monitor is in the docking station (Col. 5, lines 5-7). Thus, Maschke's docking station with rechargeable battery reads on the claimed docking station and the power unit for re-charging battery. Therefore, it would have been obvious for one ordinarily skilled in the art at the time of the invention to combine West's patient monitoring system with the docking station and re-chargeable battery of Maschke in order to provide the portable monitors with a full suite of power and communication services (Maschke Col. 4, lines 64-65).

As to claim 2, West and Maschke teach wherein said communication interface automatically switches between said second and third mode to maintain continuous communication of processed patient parameter data (Fig. 11 teaches a rendezvous process in determining whether the communication is wireless or wired; West [0034], lines 6-10), in response to detection of an operational communication link and communicates said processed patient parameter data to: said image reproduction device for display in said first mode (Fig. 8 is an exemplary image for display on a display screen; West [0014]); said docking station when said portable monitoring unit is docked in said docking station in said second mode; and said network access point coupled to said communication network via wireless communication in said third mode (Maschke teaches a transportable modular patient monitor with data acquisition modules with a docking station is where the portable monitor may be attached (Col. 14, lines 37-38) wherein the docking station recharges the battery of the monitor while the monitor is in the docking station (Col. 5, lines 5-7).); without requiring physical removal of said plurality of patient attached sensors (as a result of the monitor-pod configuration no connections need to be detached; Maschke Col. Lines 51-54).

As to claim 3, it differs from claim 2, in that claim 3 further teaches wherein said plurality of patient attached sensors are connected to said data acquisition processor through a cable (one cable connects the pod to the monitor regardless of how many sensors are coupled to the pod; Col. 3, lines 34-36).

As to claim 4, it differs from claim 3 in that claim 4 further teaches wherein the cable is connected to the data acquisition processor through a connector (data connectors allow physical connections to be established; Col. 5, lines 20-24).

As to claim 5, Maschke teaches wherein said portable monitoring unit is removable from said docking station in said second mode without disconnection of a connector (the sensors are connected to the portable monitor through cables, when the portable monitor is removed from the docking station the cables that's connected to the sensor remain attached to the portable monitor because if the connectors and cables are detached from the portable monitoring unit then all the patient's data would be lost; Col. 2, lines 23-28).

As to claim 6, Maschke teaches wherein said portable monitoring unit is removable from said docking station in said second mode without disconnection of a cable (the sensors are connected to the portable monitor through cables, when the portable monitor is removed from the docking station the cables that's connected to the sensor remain attached to the portable monitor because if the connectors and cables are detached from the portable monitoring unit then all the patient's data would be lost; Col. 2, lines 23-28).

As to claim 7, Maschke teaches wherein said portable monitoring unit in said third mode supports wear by a patient to support monitoring of patient parameters during patient movement (Col. 4, lines 59-61) and portable use by a healthcare worker to check parameters of multiple patients at different locations (displaying the patient data on a monitor; Col. 2, line 43).

As to claim 8, Maschke teaches wherein said first and third modes operate concurrently to communicate said processed patient parameter data to said image reproduction device for display and to said network access point coupled to said communication network (remote display device may be a fully functioning monitor and the docking station can communicate with several local area network; Col. 5, lines 14-17).

As to claim 10, Maschke teaches wherein said communication interface automatically queries said communication network to determine if a second image reproduction device having an image resolution higher than said image reproduction device is present on said communication network and in a fourth mode, said communication interface communicates said processed patient parameter data to a processor for conditioning said processed patient parameter data for display on a mobile tablet style reproduction device (docking station provides mechanical support for mounting the portable monitor as well as electrical couplings to a remote display, large display and television display; Col. 5, lines 9-13).

As to claim 11, Maschke teaches wherein said communication interface communicates said processed patient parameter data in said fourth mode by wireless communication (communicating the acquired data signal to monitor using a wireless communication link; Col. 3, lines 42-44).

As to claim 12, Maschke teaches wherein said processed patient parameter data comprises physiological data including an invasive or non-invasive blood pressure data (NIBP is displayed on the portable monitor; Col. 4, lines 4-7).

As to claim 13, Maschke teaches wherein said first, second and third modes support patient monitoring in a plurality of clinical situations including an intensive care unit (Col. 8, lines 30-31) and a pre-operative, intra-operative and post operative environment (Col. 8, lines 30-31).

As to claim 14, Maschke teaches an interface port for receiving a compact flash device including memory (the use of a memory card to transfer data; Col. 5, lines 53-56).

As to claim 18, Maschke teaches wherein said portable monitoring unit is assigned to a single particular patient for the duration of the length of stay of said patient in a hospital in multiple hospital care areas (monitoring devices which attach to the patient's body are transported with the patient along with the portable monitor; Col. 4, lines 59-61).

As to claim 20, Maschke teaches wherein said portable monitoring unit is assignable on-demand to a specific patient to enable a spot-check of vital signs of said patient (the portable monitor displays the physiological data and has the ability for detachably mounting more data acquisition cartridges thus allowing the user to check for patient's vital signs such as blood pressure; Col. 4, lines 4-8).

As to claim 21, it differs from claim 1 in that claim 21 does not teach of the image reproduction device for displaying processed patient parameter or the image reproduction device for display as taught by claim 1. Please see claim 1 for detail analysis.

As to claim 23, Maschke teaches wherein the cable is connected to the data acquisition processor through a connector (each pod is connected to the monitor by at most one cable and the sensors are connected to the patient to the pod; Col. 3, lines 33-37); and said communication interface for communicating said processed patient parameter data to: said image reproduction device for display in a first mode (the portable monitor displays the physiological data; Col. 4, line 4); a docking station when said portable monitoring unit is docked in said docking station in a second mode (docking station is where the portable monitor may be attached; Col. 14, lines 37-38); and a network access point coupled to a communication network via wireless communication in a third mode (communicating the acquired data signals to monitor using a wireless communication link; Col. 3, lines 41-43); without requiring physical disconnection of the connector from the data acquisition processor (the sensors are connected to the portable monitor through cables, when the portable monitor is removed from the docking station the cables that's connected to the sensor remain attached to the portable monitor because if the connectors and cables are detached from the portable monitoring unit then all the patient's data would be lost; Col. 2, lines 23-28).

As to claim 24, it differs from claim 1 in that claim 24 further teaches removing from docking station without disconnection of a connector, which is taught by claim 5. Please see claims 1 and 5 for detail analysis.

As to claim 25, it is the combination of claims 1 and 8. Please see claims 1 and 8 for detail analysis.

As to claim 27, it is the method claim of claim 1. Please see above for detail analysis.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke in view of West.

As to claim 9, Maschke teaches a display unit that shows the patient's parameters (displaying patient data on a display device; Col. 2, lines 42-43). Maschke does not expressly disclose that the display unit powers down after a predetermined time interval to conserve power in response to a preprogrammed instruction. However, Examiner takes Official Notice that powering down a monitor to conserve energy is well known in the art. It would have been obvious at the time of the invention was made to one of ordinary skill in the art to make the display unit of Maschke to have the ability to power down after a duration of idle time since Examiner takes official notice that it is common for display units to have the sleep mode feature.

6. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke in view of West.

As to claim 15, Maschke teaches the use of wireless communication link (Col.3 lines 41-43). Maschke does not expressly disclose that the wireless communication link is Bluetooth 802.15 compatible. However, Examiner takes Official Notice that Bluetooth is well known in the art. It would have been obvious at the time of the invention was made to one of ordinary skill in the art to make the wireless communication link Bluetooth compatible since Examiner takes official notice that Bluetooth is a common form of wireless connection.

As to claim 16, Maschke teaches the use of wireless communication link (Col.3 lines 41-43). Maschke does not expressly disclose that the wireless communication link is Bluetooth 802.15 standard compatible communication. However, Examiner takes Official Notice that Bluetooth well known in the art. It would have been obvious at the time of the invention was made to one of ordinary skill in the art to make the wireless communication link Bluetooth compatible since Examiner takes official notice that Bluetooth is a common form of wireless connection.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke in view of West.

As to claim 17, Maschke teaches the use of LANs (Col. 5, lines 16-17) and wireless communication links (Col. 3, lines 41-43). Maschke does not expressly disclose that automatically switching from LANs to wireless in order to find an optimum connection. However, Examiner takes Official Notice that detecting an optimum connection is well known in the art. It would have been obvious at the time of the invention was made to one of ordinary skill in the art to automatically switch between wired and wireless connections since Examiner takes official notice that detection of optimum connection is crucial for the performance of the system.

8. Claims 19, 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke in view of West further in view of Carter et al. (US 7,156,807 hereinafter "Carter").

As to claim 19, Maschke does not teach wherein said communication interface communicates with a wireless location detection system and supports patient location tracking. Carter teaches a wireless local area network system that comprises multiple access points that can include RF location-tracking modules, which may be used to track the locations of patients (Col. 2, lines 7-10). Thus Carter's patient location module reads on the claimed wireless location detection system for patient location tracking. Therefore, it would have been obvious for one ordinarily skilled in the art at the time the invention was made to combine the transportable modular patient monitor with the wireless tracking abilities of Carter's location-tracking modules in order to track the locations of patients (Carter Col. 2, lines 7-10).

As to claim 22, it differs from claim 23 in that claim 22 teaches the plurality of patient attached sensors are connected to said data acquisition processor through a cable (each pod is connected to the monitor by at most one cable and the sensors are connected to the patient to the pod; Maschke Col. 3, lines 33-37).

As to claim 26, it is the same as claim 10, with the only difference it being in a different mode. Please see claim 10 for detail analysis.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Claire Wang whose telephone number is 571-270-1051. The examiner can normally be reached on Mid-day flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Claire Wang
02/17/2008


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